

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

1. ORAN HAYS, individually and as the	)	
Administrator of THE ESTATE OF	)	
MARY ANN HAYS, DECEASED,	)	
2. DONNA CLEM, individually,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. <u>CIV-15-717-M</u>
	)	
1. FARMERS INSURANCE COMPANY, INC.	)	
a Foreign For Profit Insurance Corporation,	)	
	)	
Defendant.	)	

**COMPLAINT**

**A. Parties**

1. Plaintiff, Oran Hays, was appointed as the administrator of the Estate of Mary Ann Hays, Deceased, in case number PB-2014-94 in the District Court of Custer County, State of Oklahoma.

2. Plaintiffs, Oran Hays and Donna Clem, husband and wife, are each citizens of Custer County in State of Oklahoma,

3. Defendant, Farmers Insurance Company, Inc., is a foreign for profit insurance corporation incorporated and organized under the laws of the state of Kansas.

4. The principal place of business for Defendant, Farmers Insurance Company, Inc., is Olathe, Kansas.

5. The Defendant, Farmers Insurance Company, Inc., is licensed to conduct business in the state of Oklahoma and may be served with process through the Oklahoma Department of Insurance.

6. This action is not related to any other case filed in this court.

### **B. Jurisdiction**

7. The court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 because there is diversity between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

### **C. Facts**

8. At all times material hereto the decedent, Mary Ann Hays, owned a home located at 2800 W. Modelle Avenue, in Clinton, Oklahoma, which was insured pursuant to a Homeowners Policy, policy number 96918-40-00, issued by the Defendant, Farmers Insurance Company, Inc.

9. Mary Ann Hays died in November of 2014.

10. At all times material hereto, Plaintiffs, Oran Hays and Donna Clem, were insured pursuant to the terms and conditions of policy number 96918-40-00, issued by the Defendant, Farmers Insurance Company, Inc.

11. At all times material hereto, Plaintiffs complied with the terms and conditions of said insurance policy.

12. On or about May 25, 2015, Plaintiffs' home located at 2800 W. Modelle

Avenue, Clinton, Oklahoma, sustained damage as a result of a sudden and accidental cave in of structural components, including but not limited to the roof framing and structural members.

13. The damages to Plaintiffs' property which occurred on or about May 25, 2015 are covered and not otherwise excluded pursuant to the terms and conditions of the policy issued by the Defendant Farmers Insurance Company, Inc.

**D. Count I Breach of Contract**

14. Plaintiffs, hereby assert, allege and incorporate paragraphs 1-13 herein.

15. The acts and omissions of Defendant, Farmers Insurance Company, Inc., in the adjustment of Plaintiffs' claim were unreasonable and amount to a breach of the insurance contract issued by Defendant. Defendant improperly denied Plaintiffs' claim and conducted an unreasonable investigation, evaluation, and denial of said claim. Defendant improperly concluded, without adequate investigation, that the structural damage to Plaintiffs' home was not covered.

16. The acts and omissions listed in paragraphs 1-15 above, as well as Defendant Farmers Insurance Company's unreasonable failure to investigate, evaluate and make payment on Plaintiffs' claim, constitute a breach of contract for which contractual damages, including costs and attorney fees, are hereby sought.

**E. Count II Bad Faith**

17. Plaintiffs hereby assert, allege and incorporate paragraphs 1-16 herein.

18. The acts and omissions of the Defendant, Farmers Insurance Company, Inc., in the investigation, evaluation and payment of Plaintiffs' claim were unreasonable and constitute bad faith for which bad faith and extra-contractual damages are hereby sought.

19. Defendant acted unreasonably, outside of insurance industry standards, and breached its contract in bad faith by failing to reasonably complete an investigation of Plaintiffs' claim and by failing to properly adjust and apply coverage to the covered damages to the Plaintiffs' home. Upon discovery that Plaintiffs' roofing structure had caved in, Defendant conducted an unreasonable investigation and concluded, without thorough inspection of the Plaintiffs' home and damages, that the loss was not covered and that no payment would be issued to Plaintiffs. Defendant failed to adopt, implement and/or otherwise follow good faith claims handling guidelines regarding the investigation, evaluation, and timely payment of first party claims. Defendant further failed to conduct a thorough and reasonable coverage analysis and, accordingly, wrongfully and unreasonably concluded that no payment should be issued for Plaintiffs' covered damages. Had Defendant conducted a reasonable investigation of Plaintiffs' loss and a thorough analysis of Plaintiffs' coverages, Plaintiffs would have received indemnity payments for their damages pursuant to the policy terms and conditions.

#### **F. Count III Punitive Damages**

20. Plaintiffs hereby assert, allege and incorporate paragraphs 1-19 herein.

21. The unreasonable conduct of the Defendant, Farmers Insurance Company, Inc., in the handling of Plaintiffs' claim was intentional, willful, wanton and was committed with a reckless disregard for the rights of the Plaintiffs for which punitive damages are hereby sought.

**G. Demand for Jury Trial**

22. The Plaintiffs, Oran Hays, individually and as the Administrator of the Estate of Mary Ann Hays, and Donna Clem, hereby request that the matters set forth herein be determined by a jury of their peers.

**H. Prayer**

23. Having properly plead, Plaintiffs, Oran Hays, individually and as the Administrator of the Estate of Mary Ann Hays, and Donna Clem, hereby seek contractual, bad faith and punitive damages against the Defendant, Farmers Insurance Company, Inc., all in an amount in excess of \$75,000.00; including costs, interest and attorney fees.

Respectfully submitted,

S/ Michael D. McGrew

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**ATTORNEYS FOR THE PLAINTIFF**